

**ENTERED**

March 24, 2017

David J. Bradley, Clerk

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS  
MCALLEN DIVISION

RAFAEL GABRIEL LINARES

Movant

VS.

THE UNITED STATES OF AMERICA

Respondent

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CIVIL ACTION NO. M:15-122

CRIMINAL NO. M-13-1081-2

**ORDER ADOPTING REPORT AND RECOMMENDATION**

Pending before the Court is Movant's motion to vacate, set aside, or correct sentence pursuant to 28 U.S.C. § 2255, which motion had been referred to the Magistrate Court for a report and recommendation. On March 2, 2017, the Magistrate Court issued the Report and Recommendation, recommending that Respondent's Motion to Dismiss be **GRANTED**, Movant's Motion to Amend be **DENIED**, and that Movant's 2255 motion be **DENIED**, and claims **DISMISSED** with prejudice, and that a Certificate of Appealability be denied upon the issuance of this Court's final order. Also pending before the Court are Movant's objections to the Report and Recommendations.

Pursuant to Federal Rule of Civil Procedure 72(b), the Court has conducted a de novo review of the Report and Recommendation. Finding no clear erroneous error, the Court adopts the Report and Recommendation in its entirety. Accordingly, Respondent's Motion to Dismiss (Dkt. Entry No. 7) is **GRANTED**, Movant's Motion to Amend (Dkt. Entry No. 13) is **DENIED**, and Movant's 2255 Motion is **DENIED**, and claims are **DISMISSED** with prejudice. A Certificate of Appealability is **DENIED**.

SO ORDERED this 24th day of March, 2017, at McAllen, Texas.

A handwritten signature in black ink, reading "Randy Crane". The signature is written in a cursive, slightly stylized font. The "R" is large and loops around the "a", and the "C" in "Crane" is also large and loops around the "r". The signature is positioned above a horizontal line.

Randy Crane  
United States District Judge